

STATE OF INDIANA)
)
COUNTY OF TIPPECANOE)

BEFORE THE AREA BOARD OF ZONING APPEALS

BZA-1734

APPEAL OF BURKHART
ADVERTISING, INC.

FINDINGS OF FACT

The petitioner, Burkhart Advertising, Inc. submits the following findings of fact as presented in the evidence on hearing on the 28th day of February, 2007.

1. An outdoor advertising sign owned by Burkhart Advertising, Inc. was damaged by a windstorm in December, 2006. (Sometime prior to December 4).
2. That sign was a nonconforming use as defined by the UZO as follows:

Nonconforming Use. A primary use of a structure or lot which is not permitted in 3-2 below to be operated in the zone in which it is located, and which otherwise lawfully existed at the time the applicable portion of 3-2 became effective.

3. That an additional relevant section of the UZO is:

When a nonconforming use is damaged by any means to the extent that repairs would cost more than 50% of the replacement cost of that use, the nonconforming use shall no longer be permitted.

4. The outdoor sign was on property located at 9519 US Highway 52 South, Lafayette, Indiana.
5. On December 4, 2006, the Tippecanoe County Building Inspector visited the site of the subject billboard.
6. The Building Inspector left a notice of violation on the site (commonly known as a red tag) which stated that a building permit had to be obtained from the Tippecanoe County Building Commission before any repairs could be made to the billboard.
7. That the notice and subsequent letters by Mr. Highland of December 13, 2006 did not reflect or state his valuation of replacement cost nor did it place a value on the sign.
8. That the replacement cost of a new 12' x 25' single faced billboard is \$8,490.00.

9. That using scrap already owned, new concrete of a value of \$1,000.00, backhoe labor of a value of \$600.00 and labor of a value of \$1,280.00 a board can be repaired for \$2,880.00, well below 50% of the replacement cost.
10. The term "Replacement Cost" while used in the ordinance is not defined in the UZO.
11. Webster defines "replacement" as "the action or process of replacing".
12. Webster defines "replace" as "to put something new in place of".
13. Because we have no definitions in the ordinance nor description, the ordinance language must be given ordinary meaning.
14. 50% of replacement cost would be \$4,245.00 (1/2 of \$8,490.00).
15. The subject board can be repaired for less than 1/2 of its replacement cost.
16. No repairs were commenced without a permit, the only work being done is to secure the area for safety purposes.
17. No language of the ordinance requires replacement of the sign just like what was there.

CONCLUSION

The outdoor advertising board can be repaired at less than 50% of the replacement cost.

DECISION

The appeal of Burkhart Advertising, Inc. is granted and the Administrative Office is ordered to issue an Improvement Location Permit to authorize repair and restoration of the subject sign.

Respectfully Submitted,

By: _____

Joseph T. Bumbleburg
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STATE OF INDIANA)
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BURKHART ADVERTISING, INC., Petitioner

SUPPLEMENTAL EVIDENCE

Due to questions propounded by the Board, the following information/evidence is provided:

1. The question propounded was what the cost of a sign like the damaged sign would be. Exhibit A attached hereto sets forth a repair of the existing sign and a replacement of the existing sign with a like sign.
2. Exhibit B constitutes the bill of materials for a sign to replace the damaged sign.
3. Due to questions about the use of steel and the Bus Beams five additional pictures are submitted as follows:

Explanation of Pictures:

- a. #1a this shows that there is wood attached to the outside of the Bus Beams.
- b. #1b this is the opposite side showing the Bus Beam.
- c. #1c this is showing the Bus Beam with the wood attached.
- d. (A) is viewing the structure looking East.
- e. (B) is viewing the Bus Beams, supports, looking East.
- f. Looking West.

Respectfully Submitted,

Joseph T. Bumbleburg, #2987-79
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P.O. Box 1535
Lafayette, IN 47902

BILL of MATERIALS for STANDARD POSTER PANAL

DATE
3/1/2007

Lafayette
US 52 1/4 mile S/O Monroe
Storm Damage 12/1/06

Type of Structure: (Check all that apply)

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Illuminated
S/B/S/
B/B
S/F          XXXXXXXXXXX
OFFSET
FLAG
V BUILD
C MOUNT

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**A. Standard material
on all PPs/single face**

Inventory

Purchase

Total labor

Vendor

1. 6" x 20' I-Beam plus shipping
 2. Face and Trim
 3. Tri-vision
 4. Platform
 5. Imprint
 6. 4x6x10 lumber
- B. excavation**
1. Concrete 12 yards
 2. Backhoe

		\$1,600.00		
		\$1,300.00		
		\$300.00		
		\$15.00		
		\$40.00		
		\$1,200.00		
		\$600.00		
				\$1,280.00
\$0.00	\$0.00	\$5,055.00	\$0.00	\$1,280.00

Grand Total	\$6,335.00
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Totals $\overline{FV} \quad B$

Comparison of all Bill of Materials

Date March 2, 2007

Branch Lafayette

City/County Tippecanoe

Location US 52 1/4 mile S/O Monroe

Storm Damage 12-1-06

Configuration 12' x 25' Single Face

	Structure + Face & Trim Including Shipping if App	Cat Walk	Concrete	Notes	Backhoe	Water Bore	Labor	TOTAL
Repairing (I-Beam Structure)	Scrap in yard	Scrap in Yard	\$1,000.00	Dig a Trench around all I-Beams	\$600.00	N/A	\$1,280.00	\$2,880.00
New (I-Beam Structure)	\$3,255.00	Inc/with Structure	\$1,200.00		\$600.00	N/A	\$1,280.00	\$6,335.00

Ex A









